

**MINUTES OF THE
GREENSBORO BOARD OF ADJUSTMENT
REGULAR MEETING
DECEMBER 19, 2005**

The regular meeting of the Greensboro Board of Adjustment was held on Monday, December 19, 2005 in the City Council Chamber of the Melvin Municipal Office Building, Greensboro, North Carolina commencing at 2:06 p.m. The following members were present: Vice Chair John Cross, Ann Buffington, Russ Parmele and Rick Pinto. Bill Ruska, Zoning Administrator and Blair Carr, Esq., from the City Attorney's Office were also present.

APPROVAL OF MINUTES OF LAST MEETING:

Ms. Buffington moved to approve the minutes of the November 2005 meeting as amended, seconded by Mr. Parmele. The Board voted unanimously in favor of the motion.

Mr. Ruska was sworn in for evidence to be given by him on the requests before the Board today.

Vice Chair Cross asked if there were any changes to the agenda and also stated that since there are only four Board members present, any applicant has the right to ask for a continuance.

Mr. Ruska reported that the matter concerning BOA-05-55, 4001 U.S. 220 North, Dave's Construction Services, would need to be continued because two of the witnesses for this matter are out of town.

Mr. Parmele moved to continue this item, seconded by Mr. Pinto. The Board voted unanimously in favor of the motion. (Ayes: Buffington, Cross, Parmele and Pinto. Nays: None.)

Henry Isaacson, representing Kotis Properties on the matter concerning BOA-05-53, 920 North Church Street, came forward and said they wished for this matter to be continued to the January meeting.

Mr. Pinto moved to continue this item, seconded by Ms. Buffington. The Board voted unanimously in favor of the motion. (Ayes: Buffington, Cross, Parmele and Pinto. Nays: None.)

NEW BUSINESS

VARIANCE

- A) BOA-05-52 110 BEVERLY PLACE JOE AND SOPHIE COMICK REQUEST A VARIANCE FROM THE MINIMUM SIDE SETBACK REQUIREMENT. VIOLATION: A PROPOSED ATTACHED BEDROOM ADDITION WILL ENCROACH 2.7 FEET INTO A REQUIRED 10 FOOT SIDE SETBACK. TABLE 30-4-6-1, PRESENT ZONING RS-12, BS-47, CROSS STREET – MADISON AVENUE. (GRANTED)**

Mr. Ruska stated that Joseph and Sophie Comick are the owners of a parcel located at 110 Beverly Place. The lot is located on the east side of Beverly Place south of Madison Avenue on zoning map block sheet 47 and is zoned RS-12. The lot contains a single family dwelling and a detached accessory in-ground pool. The applicant is proposing to construct an attached bedroom

addition to the side of the dwelling. The addition will encroach 2.7 feet into a 10-foot side setback requirement. The lot is rectangular shaped. The dimensions are approximately 73 feet wide by 217 feet deep. The lot area is approximately 15,800 square feet. The existing house was built in 1939 and is located 7.3 feet from the side property line. The addition is proposed to remain in line with the existing house. The adjacent properties are also zoned RS-12.

Vice Chair Cross asked if there was anyone present wishing to speak on this matter.

Joseph Comick, the property owner, was sworn or affirmed and stated that his family purchased this property about three years ago and now have three children and they wish to expand the house for a third bedroom. In looking at the property, the proposed placement of the addition seems to be the most logical location as it is in line with the existing house and would not be intrusive to the neighborhood. The closest neighbor has been informed of their plans and has no objection to the addition and has written a letter to that effect. He also presented photographs of the existing house showing the area of the proposed addition.

Dan Huckabee, 410 Beverly Place, was sworn or affirmed and stated that he is the designer that will work on the proposed project. He pointed out that there is also an existing swimming pool on the property that limits the placement of the proposed addition.

After some discussion, Mr. Pinto moved that in BOA-05-52, 110 Beverly Place, the Zoning Enforcement officer be overruled and the variance granted, based on the findings of fact being incorporated into the record as there are practical difficulties or unnecessary hardships that result from carrying out the strict letter of the ordinance. If the applicant complies with the provisions of the ordinance he can make no reasonable use of this property because the existing structure is set in such a way that it already encroaches 2.7 feet into a 10 foot side setback and there is an existing swimming pool that is behind the house and in order to maintain the 10 foot requirement for structures from the pool and in order to keep in line with the existing structure, a variance is needed. That is not of the homeowner's doing since there were conditions that existed when the home was purchased three years ago. The existing home already encroached, although at the time the home was built, this was not zoned RS-12. The hardship is not the result of the applicant's own actions as it was that way when he bought it. It is in harmony with the general purpose and intent of the ordinance and preserves its spirit as it keeps the home in size and appearance the same as other homes in the neighborhood. There is evidence that the property owner that is adjacent to the requested variance is in support of the construction and the granting of the variance. The granting of the variance assures the public safety and welfare and does substantial justice because there has been no evidence that would indicate that there is a safety issue here as the proposed addition is in line with the existing homes, seconded by Ms. Buffington. The Board voted unanimously in favor of the motion. (Ayes: Buffington, Cross, Parmele and Pinto. Nays: None.)

B) BOA-05-53 920 NORTH CHURCH STREET KOTIS PROPERTIES REQUESTS A VARIANCE FROM THE SPECIAL SETBACK FROM A THOROUGHFARE. VIOLATION: A PROPOSED COMMERCIAL BUILDING WILL ENCROACH 16.5 FEET INTO A 100 FOOT CENTERLINE SETBACK FROM EAST WENDOVER AVENUE. THIS WILL RESULT IN THE BUILDING BEING 23.5 FEET FROM THE PROPERTY LINE/EAST WENDOVER AVENUE SOUTHER RIGHT-OF-WAY LINE. SECTION 30-4-7.3(X)(1), PRESENT ZONING-GB, BS-11, CROSS STREET – EAST WENDOVER AVENUE. (CONTINUED)

C) BOA-05-54 3506 DELANCY STREET JOHN FODRELL FOR CHURCH OF GOD THE SEVENTH DAY, INC., REQUESTS A VARIANCE FROM AN INTERIOR SETBACK REQUIREMENT. VIOLATION: A PROPOSED ADDITION TO AN EXISTING CHURCH WILL ENCROACH 3 FEET INTO A 20 FOOT INTERIOR SETBACK. TABLE 30-4-6-4, PRESENT ZONING – RM-18, BS-33, CROSS STREET – HOLT AVENUE. (GRANTED)

Mr. Ruska stated that Church of God the Seventh Day, Inc. is the owner of a parcel located at 3506 Delancy Street, which contains a church. This case was previously heard and approved at the November 25, 2002 meeting. The applicant did not commence construction within the 12 month period; thus the variance expired. Each packet contains a copy of the previous minutes for this case. The lot is located on the south side of Delancy Street west of Sykes Avenue and north of Calumet Place on zoning map block sheet 33. The lot is currently zoned RM-18. The lot contains a one-story 1,512 square foot church that was built in 1950. The applicant is proposing to add a 588 square foot classroom addition to the rear of the church. The addition is proposed to be 17-feet from the rear property line instead of 20 feet as required. The lot is rectangular shaped and contains approximately 11,000 square feet. The front portion of the property contains nine (9) parking spaces that are required based on the number of seats in the main chapel. The applicant recently applied for a building permit to begin construction. The building permit was approved by building inspections. The permit technician was not aware of the variance expiration. The applicant has begun construction on the addition. The adjacent properties are also zoned RM-18.

Vice Chair Cross asked if there was anyone present wishing to speak on this matter.

Pastor John Fodrell, 1604 Pickard Street was affirmed and stated that they had originally received a variance a couple of years ago and they have received a building permit and some construction has already begun, but they were unable to complete it because of a problem with the original contractor. They have already built the walls and the roof is on and it is about 2/3 completed at this time.

Tony McRae, 1508 Ivey Heights, was sworn or affirmed and stated that he is the new contractor for this project. None of the plans for construction have changed since the original variance was granted and most of the work has already been completed. He hopes to complete the project within the next month.

There were no speakers in opposition to the request.

Ms. Buffington moved that in the matter of BOA-05-54, 3506 Delancy Street, the Zoning Enforcement officer be overruled and the variance granted based on the incorporation of the findings of fact and that there are practical difficulties and unnecessary hardships that result from carrying out the strict letter of the ordinance. If the applicant complies with the provisions of the ordinance, he can make no reasonable use of the property. The hardship of which the applicant complains results from the unique circumstances related to the property as the variance was previously granted and the work was started but there was a problem with the applicant's contractor on the job. The hardship results from application of this ordinance to the property because they have already received a building permit and if they cannot continue the work they will have to tear down the work that has already been done. The hardship is not the result of the applicant's own actions because the applicant did start the construction but the variance expired and they did not do this willfully. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and the granting of the variance assures public safety and welfare and does substantial justice, seconded by Mr. Parmele. The Board voted unanimously in favor of the motion. (Ayes: Buffington, Cross, Parmele and Pinto. Nays: None.)

APPEAL OF CIVIL PENALTIES:

- A) BOA-05-55 4001 U.S. 220 NORTH DAVE'S CONSTRUCTION SERVICE, INC. APPEALS THE DECISION MADE BY THE ADVISORY COMMISSION ON TREES AT THEIR OCTOBER 12, 2005 MEETING REGARDING UPHOLDING A PORTION OF THE CIVIL PENALTIES THAT HAVE BEEN ASSESSED FOR REMOVAL OF TREES LOCATED AT 4001 U.S. 220 NORTH. SECTIONS 30-5-4.10 & 30-5-4.11. PRESENT ZONING – CD-HB AND HB. BS-228, CROSS STREET – HORSE PEN CREEK ROAD. (CONTINUED)

* * * * *

There being no further business before the Board the meeting was adjourned at 2:35 p.m.

Respectfully submitted,

John Cross, Vice Chair
Greensboro Board of Adjustment

JC/jd